

**Checklist for Compliance with M.G.L. c. 175 § 144 (Nonforfeiture)**

**Note that all of the following are in addition to the requirements for the underlying product.**

- \_\_\_ Except as provided in M.G.L. c. 175 § 144, 9., section 144 does **not** apply to any of the following:
  - \_\_\_ contracts of reinsurance,
  - \_\_\_ policies of group life insurance;
  - \_\_\_ annuity or pure endowment contracts of any kind with or without return of premiums or premiums and interest, whether simple or compound,
  - \_\_\_ survivorship annuity contracts;
  - \_\_\_ any term policy of uniform amount, which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of twenty years or less expiring before age seventy-one, for which uniform premiums are payable during its entire term,
  - \_\_\_ any term policy providing for a decreasing amount of insurance, which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium computed as in section 144, is less than the adjusted premium, so computed, on a term policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance and for a term of twenty years or less expiring before age seventy-one, for which uniform premiums are payable during the entire term of the policy, or
  - \_\_\_ any policy that provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in subdivisions 2 to 6A, inclusive, of section 144 exceeds two and one-half per cent of the amount of insurance at the beginning of the same policy year. *M.G.L. c. 175, § 144 9.*

**Note: For purposes of determining the applicability of this section, the age at expiry for a joint term life insurance policy shall be the age at expiry of the oldest life.**

*M.G.L. c. 175, § 144, 8.*

- \_\_\_ group annuity contracts as defined in M.G.L. c. 175, § 132A *M.G.L. c. 175, § 144, 11*
- \_\_\_ individual contracts on a variable basis; provided, that such individual contracts specify, in a manner satisfactory to the commissioner, the nature and the basis of the ascertainment of the rights of the holder, in the event of the nonpayment of any premium or consideration. *M.G.L. c. 175, § 144, 11.*

The policy **must** contain the following provisions:

- \_\_\_ In the event of default in the payment of any premium on any policy of life insurance at any time, within 60 days after the due date and before the death of the insured, the holder may make written election to (a) surrender the policy and receive its value in cash, provided that its premiums had been paid for 3 full years or (b) take a specified paid-up nonforfeiture benefit effective from the due date of the premium in default. *M.G.L. c. 175, §144 1.*
- \_\_\_ Exception: For industrial life insurance policies, premiums must have been paid for 5 years. *M.G.L. c. 175, §146*
- \_\_\_ **Note: In lieu of such specified paid-up nonforfeiture benefit, the company may substitute, upon proper request not later than 60 days after the due date of the**

**premium in default, an actuarially equivalent alternative paid-up benefit which provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits.**

- \_\_\_ Any cash surrender value available under the policy in the case of a default in the payment of a premium due on any anniversary of the policy shall be an amount not less than the excess, if any, of the present value, on such anniversary of the future guaranteed benefits which would have been payable if there had been no default, including any existing paid-up additions, over the sum of (a) the then present value of the adjusted premiums as defined in subdivisions 5 and 6A of M.G.L. c. 175, § 144, corresponding to the premiums which would have fallen due on and after such anniversary, and (b) the amount of any existing indebtedness to the company on the policy or secured thereby;
- \_\_\_ but note that for any policy which provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in the first paragraph of this subdivision shall be an amount not less than the sum of the cash surrender value as defined in such paragraph for an otherwise similar policy issued at the same age without such rider or supplemental paragraph for a policy which provides only the benefits otherwise provided by such rider or supplemental policy provision;
- \_\_\_ note further that for any family policy which defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age 71, the cash surrender value referred to in the first paragraph of this subdivision shall be an amount not less than the sum of the cash surrender value as defined in such paragraph for an otherwise similar policy issued at the same age without such term insurance on the life of the spouse and the cash surrender value as defined in such paragraph for a policy which provides only the benefits otherwise provided by such term insurance on the life of the spouse. *M.G.L. c. 175, §144 2.*
- \_\_\_ The policy must state that a specified paid-up nonforfeiture benefit will become effective as stated in the policy unless the holder elects another available option prior to the death of the insured and not later than 60 days after the premium due date. *M.G.L. c. 175, §144 1.*
- \_\_\_ Nothing in this section shall be construed to prohibit the inclusion of a provision in a policy that any cash surrender value shall be payable with the written assent of the person to whom the policy is payable. *M.G.L. c. 175, § 144, 10*

## Contents of the Actuarial Memorandum

- \_\_\_ Except as provided in M.G.L. c. 175 § 144, 9, section 144 does not apply to any of the following:
    - \_\_\_ contracts of reinsurance,
    - \_\_\_ policies of group life insurance,
    - \_\_\_ annuity or pure endowment contracts of any kind with or without return of premiums or premiums and interest, whether simple or compound,
    - \_\_\_ survivorship annuity contracts;
    - \_\_\_ any term policy of uniform amount, which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of twenty years or less expiring before age seventy-one, for which uniform premiums are payable during its entire term,
    - \_\_\_ any term policy providing for a decreasing amount of insurance, which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium computed as in this section, is less than the adjusted premium, so computed, on a term policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance and for a term of twenty years or less expiring before age seventy-one, for which uniform premiums are payable during the entire term of the policy, or
    - \_\_\_ any policy that provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in subdivisions 2 to 6A, inclusive, exceeds two and one-half per cent of the amount of insurance at the beginning of the same policy year.
- Note: For purposes of determining the applicability of this section, the age at expiry for a joint term life insurance policy shall be the age at expiry of the oldest life. *M.G.L. c. 175, § 144, 8*
- \_\_\_ group annuity contracts as defined in M.G.L. c. 175, § 132A *M.G.L. c. 175, § 144, 11*
  - \_\_\_ individual contracts on a variable basis; provided, that such individual contracts specify, in a manner satisfactory to the commissioner, the nature and the basis of the ascertainment of the rights of the holder, in the event of the nonpayment of any premium or consideration. *M.G.L. c. 175, § 144, 11*

The following defines the terms “nonforfeiture factor” and “basic cash value.” In turn, cash surrender values are defined in terms of basic cash value. (Nonforfeiture factor = percentage of adjusted premium satisfying certain technical requirements; basic cash value is defined in terms of the nonforfeiture factors.) All of the following is contained in M.G.L. c. 175, § 144, 7A:

- \_\_\_ The cash surrender values available under such policies shall be essentially in compliance with this subdivision. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary shall be in an amount which does not differ by more than two-tenths of one per cent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years, from the sum (a) the greater of zero and the basic cash value hereinafter specified and (b) the present value of any existing paid-up additions less the amount of any indebtedness to the company under the policy.

- The basic cash value shall be equal to the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the company, if there had been no default, less the then present value of the nonforfeiture factors, as hereinafter defined, corresponding to premiums that would have fallen due on and after such anniversary; provided, however, that the effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in subdivision 2 or 5, whichever is applicable, shall be the same as are the effects specified in subdivision 2 or 5, whichever is applicable on the cash surrender values defined in that subdivision.
- The nonforfeiture factor for each policy year shall be an amount equal to a percentage of the adjusted premium for the policy year, as defined in subdivision 5 or 6A, whichever is applicable. Except as is required by the next succeeding sentence of this paragraph, such percentage:
  - (a) must be the same percentage for each policy year between the second policy anniversary and the later of (i) the fifth policy anniversary and (ii) the first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least two-tenths of one per cent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years; and
  - (b) must be such that no percentage after the later of the two policy anniversaries specified in the preceding item (a) may apply to fewer than five consecutive policy years.
- Provided, that no basic cash value may be less than the value which would be obtained if the adjusted premiums for the policy, as defined in subdivision 5 or 6A, whichever is applicable, were substituted for the nonforfeiture factors in the calculation of the basic cash value.
- All adjusted premiums and present values referred to in this subdivision shall for a particular policy be calculated on the same mortality and interest bases as are used in demonstrating the policy's compliance with the other subdivisions of section 144. The cash surrender values referred to in this subdivision shall include any endowment benefits provided for by the policy.
- Any cash surrender value available other than in the event of default in a premium payment due on a policy anniversary, and the amount of any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment shall be determined in manners consistent with the manners specified for determining the analogous minimum amounts in subdivisions 1, 2, 3, 6A and 7 of section 144. The amounts of any cash surrender values and of any paid-up nonforfeiture benefits granted in connection with additional benefits such as those listed as items (i) to (v), inclusive, in subdivision 7 shall conform with the principles of this subdivision. *M.G.L. c. 175 § 144, 7A.*
- Magnitude of the minimum cash surrender value on any policy anniversary:  $CSV \geq PV$  of future guaranteed benefits, including paid-up additions, over the sum of the PV of future **adjusted premiums** (*defined in 6A*) plus debt. If supplemental life or annuity benefits that require additional premium are provided, then the minimum cash surrender value is the sum

of that provided by the base policy and the supplemental policies. For family policies with term insurance on the spouse that expires before the spouse's age 71, the minimum cash surrender value shall be the sum.

*Statutory language:* Any cash surrender value available under the policy in the case of a default in the payment of a premium due on any anniversary of the policy shall be an amount not less than the excess, if any, of the present value, on such anniversary of the future guaranteed benefits which would have been payable if there had been no default, including any existing paid-up additions, over the sum of (a) the then present value of the adjusted premiums as defined in subdivisions 5 and 6A, corresponding to the premiums which would have fallen due on and after such anniversary, and (b) the amount of any existing indebtedness to the company on the policy or secured thereby; provided, however, that for any policy which provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in the first paragraph of this subdivision shall be an amount not less than the sum of the cash surrender value as defined in such paragraph for an otherwise similar policy issued at the same age without such rider or supplemental paragraph for a policy which provides only the benefits otherwise provided by such rider or supplemental policy provision; provided, further that for any family policy which defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age 71, the cash surrender value referred to in the first paragraph of this subdivision shall be an amount not less than the sum of the cash surrender value as defined in such paragraph for an otherwise similar policy issued at the same age without such term insurance on the life of the spouse and the cash surrender value as defined in such paragraph for a policy which provides only the benefits otherwise provided by such term insurance on the life of the spouse. *M.G.L. c. 175, §144 2.*

- \_\_\_ Magnitude of paid-up nonforfeiture benefit on any policy anniversary: PV must be  $\geq$  the cash surrender value then provided. If none is provided, then the cash surrender value is that which would have been provided in the absence of the provision that premiums shall have been paid for at least a specified period.

*Statutory language:* Any paid-up nonforfeiture benefit available under the policy upon default in the payment of a premium due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the provision therein that premiums shall have been paid for at least a specified period. *M.G.L. c. 175, §144 3.*

- \_\_\_ Calculation of a cash surrender value or a nonforfeiture benefit other than on an anniversary: Any cash surrender value or other nonforfeiture benefit available upon default in the payment of a premium due at any time other than on an anniversary of the policy shall be consistent with the values provisions of subdivision 2, with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding anniversary. *M.G.L. c. 175, §144 4.*
- \_\_\_ CV of paid-up additions  $\geq$  amounts used to purchase them: The cash surrender value of any paid-up additions, other than paid-up term additions, shall be not less than the amounts used to purchase them. *M.G.L. c. 175, §144 4.*

- \_\_\_ Minimum values of paid-up nonforfeiture benefits and cash surrender values of paid-up insurance: Any paid-up nonforfeiture benefit under any policy on which the premiums, except as provided in section 146, were paid for at least three full years, and every policy which by its terms has become fully paid-up, shall have a cash surrender value payable upon written application and surrender of the policy to the company at its home office within 30 days after any anniversary of the policy. Any cash surrender value available under any paid-up insurance or under any paid-up nonforfeiture benefit, whether or not such cash surrender value is required by this paragraph, shall be an amount not less than the present value on said anniversary of the future guaranteed benefits provided for by the policy, including any paid-up additions thereto, less any indebtedness to the company on the policy or secured thereby. *M.G.L. c. 175, §144 4.*
- \_\_\_ Adjusted premium definition:
  - \_\_\_ Adjusted premiums are calculated annually.  
*Statutory language:* Except as provided in paragraph (g) of this subdivision, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of (i) the then present value of the future guaranteed benefits provided for by the policy; (ii) one per cent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years; and (iii) 125 per cent of the nonforfeiture net level premium as hereinafter defined; provided, however, that in applying the percentage specified in clause (iii) no nonforfeiture net level premium shall be deemed to exceed four per cent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years. The date of issue of a policy for the purpose of this subdivision shall be the date as of which the rated age of the insured is determined. *M.G.L. c. 175, § 144, 6A.(a)*
  - \_\_\_ Definition of the nonforfeiture net level premium (used in the calculation of adjusted premiums). The nonforfeiture net level premium must be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one per annum payable on the date of issue of the policy and on each anniversary of such policy on which a premium falls due. *M.G.L. c. 175, § 144, 6A.(b)*
  - \_\_\_ Adjusted premiums and present values definitions for policies that cause unscheduled changes in the benefits or premiums:
    - \_\_\_ In the case of policies which cause on a basis guaranteed in the policy unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any such change in the benefits or premiums the future adjusted premiums, nonforfeiture net level premiums and present values shall be recalculated on the assumption that future

- benefits and premiums do not change from those stipulated by the policy immediately after the change. *M.G.L. c. 175, § 144, 6A.(c)*
- Except as otherwise provided in paragraph (g) the recalculated future adjusted premiums for any such policy shall be such uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all such future adjusted premiums shall be equal to the excess of (A) the sum of (i) the then present value of the then future guaranteed benefits provided for by the policy and (ii) the additional expense allowance, if any, over (B) the then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy. *M.G.L. c. 175, § 144, 6A.(d)*
  - Additional expense allowance at the time of change to the newly defined benefits or premiums for the definition and calculation for policies described in M.G.L. c. 175 § 144, 6A.(c) above: The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of (i) one per cent of the excess, if positive, of the average amount of insurance at the end of each of the first ten policy years subsequent to the change at the beginning of each of the first ten policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and (ii) 125 per cent of the increase, if positive, in the nonforfeiture net level premium. *M.G.L. c. 175, § 144, 6A.(e)*
  - Recalculation of the nonforfeiture net level premium for policies where benefits or premiums change: The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing (A) by (B) where (A) equals the sum of (i) the nonforfeiture net level premium applicable prior to the change times the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred, and (ii) the present value of the increase in future guaranteed benefits provided for by the policy; and (B) equals the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due. *M.G.L. c. 175, § 144, 6A.(f)*
  - In case of a substandard issue: Notwithstanding any other provisions of this subdivision to the contrary, in the case of a policy issued on a substandard basis which provides reduced graded amounts of insurance so that, in each policy year, such policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amounts of insurance, adjusted premiums and present values for such substandard policy may be calculated as if it were issued to provide such higher uniform amounts of insurance on the standard basis. *M.G.L. c. 175, § 144, 6A.(g)*
  - All adjusted premiums and present values are to be computed using the 1980 CSO Table or the 1980 CSO Table with 10-year select factors at an interest rate  $\leq$  NF rate defined in paragraph 6A of § 144 with the exceptions of 1-6 below.  
*Statutory language:* All adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of (i) the Commissioner 1980 Standard Ordinary Mortality Table or (ii) at the election of the

company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this subdivision for policies issued in that calendar year; provided, however, that:

- \_\_\_ (1) At the option of the company, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this subdivision, for policies issued in the immediately preceding calendar year.
- \_\_\_ (2) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by subdivision 1, shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any.
- \_\_\_ (3) A company may calculate the amount of any guaranteed paid-up nonforfeiture benefit including any paid-up additions under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.
- \_\_\_ (4) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1980 Extended Term Insurance Table for policies of ordinary insurance.
- \_\_\_ (5) For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the aforementioned tables.
- \_\_\_ (6) Any ordinary mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table. *M.G.L. c. 175, § 144, 6A.(h)*
- \_\_\_ The NF interest rate = 125% of the CY statutory valuation interest rate for such policy as defined in the SVL rounded to the nearest  $\frac{1}{4}$  %.  
*Statutory language:* The nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to 125 per cent of the calendar year statutory valuation interest rate for such policy as defined in the standard Valuation Law, rounded to the nearer one quarter of one per cent. *M.G.L. c. 175, § 144, 6A.(i)*
- \_\_\_ Notwithstanding any other provision in this code to the contrary, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values shall not require refiling of any other provisions of that policy form. *M.G.L. c. 175, § 144, 6A.(j)*
- \_\_\_ After the effective date of this subdivision, any company may file with the commissioner a written notice of its election to comply, with respect to any plan of insurance, with the provisions of this subdivision after a specified date before January 1, 1989, which shall be the operative date of this subdivision for that plan of insurance for such company. If a company makes no such election, the operative date of this subdivision for that plan of insurance for such company shall be January 1, 1989. *M.G.L. c. 175, § 144, 6A.(k)*



- \_\_\_ In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance which is of such a nature that minimum values cannot be determined by the methods described above then:
  - \_\_\_ the commissioner must be satisfied that the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by subdivisions 1 to 6A, inclusive;
  - \_\_\_ the commissioner must be satisfied that the benefits and the pattern of premiums of that plan are not such as to mislead prospective policyholders or insureds;
  - \_\_\_ the cash surrender values and paid-up nonforfeiture benefits provided by such plan must not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of this Standard Nonforfeiture Law for Life Insurance, as determined by regulations promulgated by the commissioner. *M.G.L. c. 175, § 144, 6B.*
- \_\_\_ Any additional benefits payable (i) under accidental death or total and permanent disability benefit provisions incorporated in, or supplementary to a policy of life insurance (ii) as reversionary annuity or deferred reversionary annuity benefits under a policy of life insurance, or (iii) as term insurance benefits provided by a rider or supplemental policy provision, to which provision this section would not apply if it were evidenced by a separate policy, or (iv) as term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is 26, is uniform in amount after the child's age is one, and has not become paid-up by reason of the death of a parent of the child, and (v) any other benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits, hereinbefore described, shall be disregarded in computing adjusted premiums and cash surrender values and other nonforfeiture benefits under this section, and no such additional benefits shall be required to be granted in connection with any nonforfeiture benefits. *M.G.L. c. 175, § 144, 7.*